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Attorney for Defendant O'Shaughnessy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

Case No. 3:16-cr-00051-BR

Plaintiff,

v.

**AMMON BUNDY, JON RITZHEIMER,
JOSEPH O'SHAUGHNESSY, RYAN
PAYNE, RYAN BUNDY, BRIAN
CAVALIER, SHAWNA COX, PETER
SANTILLI, JASON PATRICK, DUANE
LEO EHMER, DYLAN ANDERSON,
SEAN ANDERSON, DAVID LEE FRY,
JEFF WAYNE BANTA, SANDRA LYNN
PFEIFER ANDERSON, KENNETH
MEDENBACH, BLAINE COOPER,
WESLEY KJAR, COREY LEQUIEU,
NEIL WAMPLER, JASON CHARLES
BLOMGREN, DARRYL WILLIAM
THORN, GEOFFREY STANEK, TRAVIS
COX, ERIC LEE FLORES, and JAKE
RYAN**

**JOINT STATUS REPORT IN
ADVANCE OF JULY 6, 2016,
STATUS CONFERENCE**

Defendants.

The defendants, through Amy Baggio, and the government, through Assistant United States Attorney (AUSA) Geoffrey Barrow, submit the following Joint Status Report In Advance Of July 6, 2016, Status Conference, as directed in the Court's Order of June 17, 2016. (Doc. 726 at 11.)

CERTIFICATION OF CONFERRAL: Undersigned counsel certifies that AUSA Barrow was provided a copy of, and consulted regarding the content of, this Joint Status Report. Both the defense and government positions are set forth below.

A. Proposed Agenda For July 6, 2016, Status Conference

1. *Update On Scheduling Of Round Two Motions* – Defendants filed a total of six Round Two motions:
 - a. Defendant Santilli's Motion to Suppress Identification (Doc. 689);
 - b. Defendant Payne's Motion to Suppress Emails* (Doc. 711);
 - c. Defendant Payne's Motion to Suppress Facebook Evidence (Nevada* and Oregon; jurisdictional issue) (Doc. 712);
 - d. Defendant Patrick's Motion to Change Venue (Doc. 715);
 - e. Defendant O'Shaughnessy's Motion to Suppress Nevada Facebook Evidence* (Doc. 738); and
 - f. Defendant Fry's Motion to Suppress Oregon Facebook Evidence (Doc. 741 & 742)

*The government and the defense may have come to terms for resolving Defendant Payne and Defendant O'Shaughnessy's Motions to Suppress Emails and *Nevada* Facebook Evidence. *See* Government Response to Payne's Motion to Suppress Email (Doc. 794), Government Response to Payne's Motion to Suppress Facebook Evidence (Doc. 795) and Government Response to O'Shaughnessy's Motion to Suppress (Doc. 797).

The Court stated it would make necessary scheduling decisions based on the actual motions filed and would advise the parties as soon as practicable (Doc. 726 at 4). In light of the positions

taken by the government in its Responses, it appears that three to four¹ motions will require hearings and argument: Defendant Payne's Motion to Suppress Facebook Evidence (Oregon only; jurisdictional issue) (Doc. 712); Defendant Patrick's Motion to Change Venue (Doc. 715); and Defendant Fry's Motion to Suppress Oregon Facebook Evidence (Doc. 741 & 742). The parties suggest the July 6th Status Conference would present an opportunity for further discussions of scheduling.

2. *Argument Regarding Contested Discovery Issues* – After further consultation, the following contested, discovery issues remain:

- a. Defendant Ritzheimer's Motion to Compel Production of Information Regarding Law Enforcement's Use and Display of Force (Doc. 697 & 698)²;
- b. Defendant Fry's Motion to Compel Production of the Investigation of FBI Use of Force and Cover-Up in the Finicum Shooting (Doc. 700 & 701)³;
- c. Disputed Discovery Issues 1, 2, 3, and 7, Remaining From June Status Conference Status Report (Joint Status Report re: Contested Issues 1, 2, 3 & 7, Doc. 774). As of the June 24th Status Report (Doc. 774), the parties proposed a briefing schedule for the issue of providing Nevada case discovery to all defendants, with Defendant's motion and supporting authority due on July 1st and the Government's Response due of July 8th. The remaining issues were either resolved or remain under conferral. The next Joint Status Report will be filed on July 1st.

¹ In the government's response to Mr. Santilli's motion to suppress identification, the government took the position that it did not intend to offer evidence of the identification to which Mr. Santilli objected. (Doc. 793). It is not clear if Mr. Santilli agrees that this position moots his motion to suppress. If he agrees, then there are only three remaining "Round Two" motions requiring hearing and argument. If Mr. Santilli disagrees, then this motion would be the fourth motion requiring hearing and/or argument.

² The government filed a response to this motion (Doc. 739). Defendant Ritzheimer filed a reply to the response (Doc. 781, including Exhibits 101 and 102). Defendant Ritzheimer's reply asked the Court to either grant the motion, or to set oral argument for the July 6th status hearing if the Court had concerns not addressed by the pleadings.

³ The government moved to file a declaration in response to Mr. Fry's motion *ex parte* and under seal (Doc. 752). The Court granted the request to file the document under seal, but directed the government to serve the defendants (Doc. 754). The government filed a renewed motion seeking again to file the declaration under seal and *ex parte* (Doc. 755). The government filed its response without the declaration, asking the Court to decide the motion without oral argument (Doc. 775).

3. *Defendant Ryan Bundy's Motion For Protective Order for Unmonitored Meetings, Correspondence and Calls* – Defendant R. Bundy filed a motion for protective order (Doc. 780). Mr. Patrick, also *pro se*, joined Mr. Bundy's motion (Doc. 789). The government takes no position on this motion.
4. *Defendants' Motions To Continue And Sever (non-Bruton)* – The Court may wish to reserve time at the status conference to discuss any issues that may arise from the defendants' motions to continue or for severance, due on June 30, 2016 (Doc. 726 at 5).
5. *Production of Agreed Items of Discovery* – The Court directed the government to produce all agreed materials by July 1 (Doc. 726 at 9). The parties submit that the Court may benefit from an update on production of discovery.
6. *Defendant Patrick's Motion to Compel Database Information* – This issue originally arose in the context of the June Status Conference (Doc. 726 at 7-8, directing Defendant Patrick to file a motion to compel; Doc. 776, allowing extension of time until June 29, 2016, for motion to compel). Mr. Patrick filed a Motion and Memorandum in Support of Motion to Compel Production of Information Pertaining to Defendants and Witnesses Contained within Various Law Enforcement Databases (Doc. 790 & 791). The parties believe this motion has been resolved by conferral and the government will be available to provide an update at the July Status Conference.
7. *Information Related To Witness Identification* – Resolution, if needed, regarding Defendant Shawna Cox's request for, and the Government's production of, photographs of defendants displayed to witnesses for identification purposes (Doc. 726 at 7). Pursuant to the Court's Order (Doc. 726 at 7), the government is filing its certification today, June 30, 2016. This item may be resolved prior to the Status Conference.

B. *Ex Parte* Meeting With The Defense

Defense counsel jointly request time at the end of the full hearing in order to address *ex parte* certain funding and coordination issues with the Court.

Respectfully submitted on June 30, 2016.

/s/ Amy Baggio

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Attorney for Defendant O'Shaughnessy

Submitted On Behalf Of The Parties